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**December 28, 2004**

**ATTN: TTAB  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513**

**VIA EXPRESS MAIL NO. EV 587255583 US**

**Re: Mark: "Drive Insurance From  
Progressive"  
Serial No.: 78/358,555  
Date: January 28, 2004**

**Mark: "How UDrive"  
Serial No.: 78/324,768  
Date: November 7, 2003**

**Mark: "UDrive"  
Serial No.: 78/324,761  
Date: November 7, 2003**

**Mark: "Drive"  
Serial No.: 78/358,559  
Date: January 28, 2004**

**Our File: 11107.0228**

**Dear Sir:**

**Enclosed herewith for filing please find the following documents:**

- 1. Petition for Cancellation (5 pp. in triplicate);**
- 2. Check in the amount of \$1,200.00 (\$300 for each class for each mark); and**
- 3. Return postcard.**

**Please file the above-referenced documents and return the date-stamped postcard to our office. It is believed that no additional fee is due. However, if this is incorrect, please**



**12-29-2004**

Commissioner for Trademarks

December 28, 2004

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charge any additional fee to Deposit Account No. 50-0530. Should you have any questions, please call me.

Respectfully submitted,  
GODWIN GRUBER LLP

A handwritten signature in cursive script that reads "Eric J. Klein".

Eric J. Klein

EJK/

Enclosures

cc: Burton D. Brillhart; Eric S. Tautfest

1087247

TAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
VIA EXPRESS MAIL NO. EV 587255583 US

In the Matter of Trademark Serial Nos. 78/358,555, 78/324,768, 78/324,761 and 78/585,559.  
For the Marks: Drive Insurance From Progressive, UDrive, How Udrive, and Drive.  
Dates Filed: January 28, 2004, November 7, 2003, November 7, 2003, and January 28, 2004,  
respectively.

Drive Financial Services, LP  
Petitioner,

v.

Progressive Casualty Insurance Company,  
Registrant.

§  
§  
§  
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§

Cancellation No. \_\_\_\_\_

PETITION FOR CANCELLATION

ATTN: TTAB  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513



12-29-2004  
U.S. Patent & TMO/TM Mail Rcpt Dt. #66

Petitioner, Drive Financial Services, LP ("Petitioner"), a Delaware limited partnership with a business address of 8585 N. Stemmons Frwy, Suite 1100-N, Dallas, Texas 75247, believes that it is being and will be damaged by registration of the marks shown in Serial No. 78/358,555 in International Class 36, Serial No. 78/324,768 in International Class 36, Serial No. 78/324,761 in International Class 36, and Serial No. 78/585,559 in International Class 36 currently, each owned by Progressive Casualty Insurance Company, ("Registrant"), and hereby petitions to cancel the same. To the best of Petitioner's knowledge, Registrant's address is 6300 Wilson Mills Road, Mayfield Village, Ohio 44143.

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As grounds for this Petition, Petitioner alleges that:

1. Petitioner has established Common Law rights in the mark "Drive" through continuous use of the mark to identify its services for nearly the past five (5) years, which began at least as early as August 1999. Petitioner has established Common Law rights in its mark "D and

design” through continuous use of the mark to identify its services for at least the past four (4) years, beginning at least as early as August 2000.

2. Petitioner has established Federal rights in the marks "Drive Financial Services and design" Registration No. 2,514,867, its mark "Drive and design" Registration No. 2,503,943, and its mark "D design" Registration No. 2,503,946.

3. Registrant filed applications to register and was granted registrations for the marks:

Mark: "Drive Insurance From Progressive"  
Serial No.: 78/358,555  
Date: January 28, 2004

Mark: "How UDrive"  
Serial No.: 78/324,768  
Date: November 7, 2003

Mark: "UDrive"  
Serial No.: 78/324,761  
Date: November 7, 2003

Mark: "Drive"  
Serial No.: 78/358,559  
Date: January 28, 2004

for property and casualty insurance underwriting and administration services, namely, insurance premium quoting, taking and processing insurance applications, policy issuance and servicing, and claims adjustment and processing; providing consumer information via a global computer information network regarding insurance underwriting and servicing in the fields of property and casualty insurance in International Class 36.

4. As a result of Registrant's registrations, Petitioner has been and continues to be damaged in that Registrant's registrations constitute a violation of Petitioner's Common Law and Federal rights in its marks.
5. Petitioner will continue to be damaged by the existence of Registrant's registrations in that every day Registrant's registration is in effect, it is likely to cause confusion with

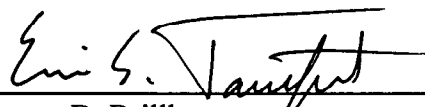
Petitioner's marks, thereby violating Petitioner's established Common Law and Federal rights in its mark, and damaging and diluting Petitioner's goodwill.

6. A duplicate copy of this Petition, as required in accordance with 37 C.F.R. § 2.112 (a) and the fee required pursuant to 37 C.F.R. § 2.6(a)(16) are submitted herewith.

WHEREFORE, Petitioner prays that Serial Nos. 78/358,555, 78/324,768, 78/324,761 and 78/585,559 be canceled and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,

**GODWIN GRUBER, LLP**

  
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Fax: (214) 760-7332

**ATTORNEYS FOR PLAINTIFF  
DRIVE FINANCIAL SERVICES, L.P.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Petition for Cancellation has been forwarded via First Class U.S. Mail, postage prepaid to:

Progressive Casualty Insurance Company  
6300 Wilson Mills Road  
Mayfield Village, Ohio 44143.

on the 28th day of December, 2004.

  
\_\_\_\_\_  
Eric J. Klein